

**ZB# 89-53**

**Moodna Development**

**78-9-25**

# # 89-53 - Moodna Development - Rear yard.

Helium. - 1916

Nov. 13, 1989.

78-9-25.

Assessor's List

Ordered 10/30/89.

ACPD notified

11/13/89. ✓

Motion to schedule

P.H. - 11/13/89

Fee Paid

Public Hearing:

11/27/89 -

Motion - Area.

Variance

approved

11/27/89 -

**General Receipt** 11041

**TOWN OF NEW WINDSOR**  
 555 Union Avenue  
 New Windsor, N. Y. 12550

November 27, 19 89

Received of Mordna. Development Co. Inc. \$ 50.00

Fifty and 00/100 DOLLARS

For Zoning Board 89-53 and 89-54-Variance

DISTRIBUTION:

FUND	CODE	AMOUNT
CE# 2691		50.00

By Pauline G. Townsend ES

Town Clerk  
 Title

Williamson Law Book Co., Rochester, N. Y. 14609

*paid CE 11*



47 81-77-1160dina Development - Kean yard



TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE OR SPECIAL PERMIT

# 89-53

Date: 11/13/89

I. Applicant Information: MOODNA DEVELOPMENT COMPANY, INC.

- (a) P. O. Box 4203, 202 Butterhill Drive, New Windsor, N.Y. 12550 x  
(Name, address and phone of Applicant) (Owner)
- (b) -  
(Name, address and phone of purchaser or lessee)
- (c) -  
(Name, address and phone of attorney)
- (d) -  
(Name, address and phone of broker)

II. Application type:

- ☐ Use Variance ☐ Sign Variance
- ☒ Area Variance ☐ Interpretation

III. Property Information:

- (a) CL 27 Guernsey Drive 78-9-25 112 x 115 +  
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? n/a
- (c) Is a pending sale or lease subject to ZBA approval of this application? Yes
- (d) When was property purchased by present owner? 1987
- (e) Has property been subdivided previously? No When? -
- (f) Has property been subject of variance or special permit previously? No When? -
- (g) Has an Order to Remedy Violation been issued against the property by the Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: n/a

IV. Use Variance: n/a

- (a) Use Variance requested from New Windsor Zoning Local Law, Section       , Table of        Regs., Col.       , to allow:  
(Describe proposal)
- 
- 
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- n/a
- (b) The legal standard for a "Use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

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V. Area variance:

- (a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Blk. Regs., Col. G.

Requirements	Proposed or Available	Variance Request
Min. Lot Area		
Min. Lot Width		
Reqd. Front Yd.		
Reqd. Side Yd.	/	/
Reqd. Rear Yd.	40'	29.7'
Reqd. Street Frontage*		10.3'
Max. Bldg. Hgt.		
Min. Floor Area*		
Dev. Coverage*	%	%
Floor Area Ratio**		

\* Residential Districts only

\*\* Non-residential districts only

- (b) The legal standard for an "AREA" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also, set forth any efforts you have made to alleviate the difficulty other than this application.

The Planning Board approved a cluster concept for all lots existing in the Butterhill Subdivision. The request of Applicant is not substantial with relation to the bulk regs. in a CL zone; there will be no change in characteristics of the neighborhood; no substantial demand on the governmental facilities; Applicant knows of no other feasible method which will alleviate problem other than seeking a variance; the interest of justice will be served with the granting of the

VI. Sign Variance: n/a

- (a) Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

	Requirements	Proposed or Available	Variance Request
Sign 1			
Sign 2			
Sign 3			
Sign 4			
Sign 5			
Total	_____ sq.ft.	_____ sq.ft.	_____ sq.ft.

n/a

- (b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or oversize signs.

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n/a

- (c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

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VII. Interpretation: n/a

- (a) Interpretation requested of New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

- (b) Describe in detail the proposal before the Board:

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VIII. Additional comments:

- (a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or upgraded and that the intent and spirit of the New Windsor Zoning Local Law is fostered. (Trees, landscaping, curbs, lighting, paving, fencing, screening, sign limitations, utilities, drainage.)

The neighboring properties are residential in nature consisting of one-family residential dwellings. There will be no change in this characteristic.

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IX. Attachments required:

- ☒ Copy of letter of referral from Bldg./Zoning Inspector.  
☒ Copy of tax map showing adjacent properties.  
☒ Copy of contract of sale, lease or franchise agreement.  
☒ Copy(ies) of site plan or survey showing the size and location of the lot, the location of all buildings, facilities, utilities, access drives, parking areas, trees, landscaping, fencing, screening, signs, curbs, paving and streets within 200 ft. of the lot.  
☒ Copy(ies) of sign(s) with dimensions.  
☒ Check in the amount of \$ 25.00 payable to TOWN OF NEW WINDSOR.  
☒ Photos of existing premises which show all present signs and landscaping.

X. AFFIDAVIT

Date November 13, 1989

STATE OF NEW YORK )  
COUNTY OF ORANGE ) SS.:

The undersigned Applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his knowledge or to the best of his information and belief. The applicant further understands and agrees that the Zoning Board of Appeals may take action to rescind any variance or permit granted if the conditions or situation presented herein are materially changed.

*Leigh K. Lyden*  
(Applicant)  
MOODNA DEVELOPMENT COMPANY, INC.

Sworn to before me this

8th day of November, 1989.

*Patricia A. Barnhart*  
PATRICIA A. BARNHART  
Notary Public, State of New York  
No. 01BA4904434  
Qualified in Orange County  
Commission Expires August 31, 1991.

XI. ZBA Action:

- (a) Public Hearing date \_\_\_\_\_.
- (b) Variance is \_\_\_\_\_.
- Special Permit is \_\_\_\_\_.
- (c) Conditions and safeguards: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

A FORMAL DECISION WILL FOLLOW  
WHICH WILL BE ADOPTED BY  
RESOLUTION OF ZONING BOARD OF APPEALS.



NEW WINDSOR ZONING BOARD OF APPEALS

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In the Matter of the Application of  
MOODNA DEVELOPMENT COMPANY, INC.

DECISION GRANTING  
AREA VARIANCE

#89-53.

-----X

WHEREAS, MOODNA DEVELOPMENT COMPANY, INC., a corporation having an office at 202 Butterhill Drive, New Windsor, N. Y. 12550, by its Vice President, Leigh K. Lydecker, Jr., has made application before the Zoning Board of Appeals for a 10.3 ft. rear yard variance to obtain a Certificate of Occupancy for a house and deck located at 27 Guernsey Drive, New Windsor, N. Y. in a CL (Cluster) zone; and

WHEREAS, a public hearing was held on the 27th day of November, 1989 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, Applicant's Vice President, Leigh K. Lydecker, Jr., appeared in behalf of the applicant corporation; and

WHEREAS, the application was unopposed; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence shows that applicant is seeking permission to vary the bulk regulations with regard to rear yard in order to obtain a Certificate of Occupancy for a house and deck constructed as a single-family residence in a CL zone.

3. The evidence presented by Applicant substantiated the fact that a variance for less than the allowable rear yard would be required in order for Applicant to obtain a Certificate of Occupancy for an existing house and deck which otherwise would conform to the bulk regulations contained in the CL zone and rejection of same would cause practical difficulty since the relief sought by Applicant is not substantial in relation to the required bulk regulations.

4. The evidence presented shows that the lot in question is located in a subdivision which was approved by the Planning Board as a cluster concept, thereby allowing a lesser amount of lot area than is usually required in the residential bulk regulations. The house and deck in question were built

according to plans submitted to the former Building Inspector and the applicant was not advised at the time that a rear yard variance would be required in order to locate the deck as shown on such plans.

5. Photographic evidence was presented by applicant which substantiated the fact that the requested variance will not result in substantial detriment to adjoining properties or change the character of the neighborhood.

6. The requested variance will produce no effect on the population density or governmental facilities.

7. That there is no other feasible method available to Applicant which can produce the necessary results other than the variance procedure.

8. The interest of justice would be served by allowing the granting of the requested variance.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 10.3 ft. rear yard variance sought by Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: December 11, 1989.

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Chairman

(ZBA DISK#1-053085.FD)

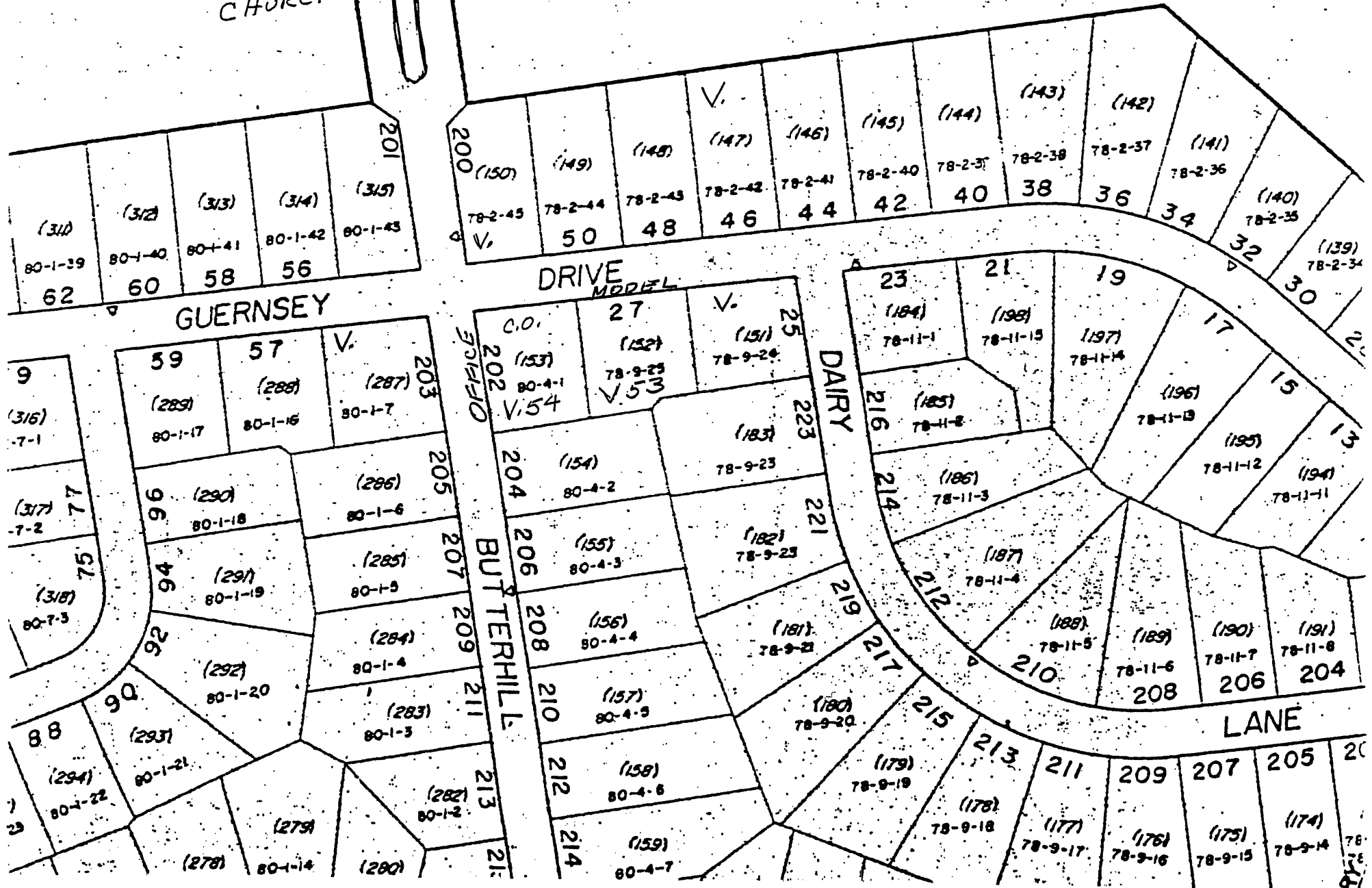
TE

ROUTE 94

37

CHURCH

SYCAMORE  
APARTMENTS





1763

# TOWN OF NEW WINDSOR

555 UNION AVENUE  
NEW WINDSOR, NEW YORK

(67)

November 3, 1989

Mr. Leigh K. Lydecker, Jr.  
PO Box 4407  
202 Butterhill Dr.  
New Windsor, NY 12550

Re: Variance List - 500 ft.  
Tax Map Parcels #78-9-25 & 80-4-1

Dear Mr. Lydecker:

According to our records, the attached list of property owners are within five hundred (500) feet of the above mentioned property.

The charge for this service is \$85.00, minus your deposit of \$25.00.

Please remit balance of \$60.00 to the Town Clerk, Town of New Windsor, NY.

Sincerely,

*L. Cook*

LESLIE COOK  
Sole Assessor

LC/po  
Enc.

cc: Patricia Barnhart

7

Sycamore Assoc.  
PO Box 4292  
New Windsor, NY

EPG Realty Corp.  
13 Garden Dr.  
Monticello, NY 12701

VSH Realty, Inc., V0732  
777 Dedham St.  
Canton, MA 02021

Forge Hill Associates  
c/o Richard P. Eisenberg  
342 Madison Ave.  
New York, NY 10173

County of Orange  
255-275 Main St.  
Goshen, NY 10924

Ridgecrest Baptist Church  
PO Box 4070  
New Windsor, NY 12550

Hauser, William J.  
& Condron, Mara  
34 Guernsey Dr.  
New Windsor, NY 12550

Marich, Richard A. & Diane A.  
36 Guernsey Dr.  
New Windsor, NY 12550

Lucas, David W.  
38 Guernsey Dr.  
New Windsor, NY 12550

Sawoska, Henry & Louise  
40 Guernsey Dr.  
New Windsor, NY 12550

Koster, Patricia L. & Mary  
42 Guernsey Dr.  
New Windsor, NY 12550

Nestor, Gary J. & Tara L.  
44 Guernsey Dr.  
New Windsor, NY 12550

Malde, Nitin & Rachael E.  
46 Guernsey Dr.  
New Windsor, NY 12550

Mendillo, Michael & Wanda  
48 Guernsey Dr.  
New Windsor, NY 12550

Hughley, Freeman & Vanley  
50 Guernsey Dr.  
New Windsor, NY 12550

Sakellson, Philip T. & Barbara J.  
200 Butterhill Dr.  
New Windsor, NY 12550

Terrible, Vincent & Cynthia G.  
322 Butternut Dr.  
New Windsor, NY 12550

Rosteck, Jan & Angelina  
320 Butternut Dr.  
New Windsor, NY 12550

Cudlipp, Michael & Madeline  
213 Dairy Lane  
New Windsor, NY 12550

Walker, Gerard J. & Cheryl  
215 Dairy Lane  
New Windsor, NY 12550

Vinci, Bernadette  
& Cindy Moore  
217 Dairy Lane  
New Windsor, NY 12550

Busweiler, Michael T. & Maureen A.  
219 Dairy Lane  
New Windsor, NY 12550

Smith, Robert & Peggy  
221 Dairy Lane  
New Windsor, NY 12550

McCormack, Raymond & Laura  
223 Dairy Lane  
New Windsor, NY 12550

Moo, Albert & Marion  
325 Guernsey Dr.  
New Windsor, NY 12550

Novotny, William B. & Lorraine A.  
23 Guernsey Dr.  
New Windsor, NY 12550 X

Tarsio, Janine  
& Mary Ann Cappelli X  
216 Dairy Lane  
New Windsor, NY 12550

Olivier, Yvon & Yolene Monchais Olivier  
214 Dairy Lane  
New Windsor, NY 12550 X

Smith, James B. & Susan J.  
212 Dairy Lane  
New Windsor, NY 12550 X

Marinelli, Michael G. & Lisa A.  
210 Dairy Lane  
New Windsor, NY 12550 X

Mundy, David J. & Carolyn R.  
208 Dairy Lane  
New Windsor, NY 12550 X

Spanakos, Michael & Maureen  
15 Guernsey Dr.  
New Windsor, NY 12550 X

Nervegna, Jr. Aldo J. & Melanie J.  
17 Guernsey Dr.  
New Windsor, NY 12550 X

Winderbaum, David & Janet  
19 Guernsey Dr.  
New Windsor, NY 12550 X

Curry, Kenneth J. & Susan  
21 Guernsey Dr.  
New Windsor, NY 12550 X

Butler, Allen J. & Lori A.  
215 Butterhill Dr.  
New Windsor, NY 12550 X

Ramus, Walter C. & Joan D. X  
9790 Gulfstream Blvd.  
Englewood, FL 34224

Weber, John T. & Susan A.  
211 Butterhill Dr.  
New Windsor, NY 12550

Mundy, Peter & Joan  
209 Butterhill Dr.  
New Windsor, NY 12550

Busija, Michael J. & Leonia  
207 Butterhill Dr.  
New Windsor, NY 12550

Gafford, James & Dorothy Bruner Gafford  
205 Butterhill Dr.  
New Windsor, NY 12550

Reif, Walter J. & Doris B.  
203 Butterhill Dr.  
New Windsor, NY 12550

Bell, Michael A. & nancy R.  
330 Butternut Dr.  
New Windsor, NY 12550

Huggins, Thomas G. & Janet S.  
328 Butternut Dr.  
New Windsor, NY 12550

Moschetti, John & Elizabeth  
326 Butternut Dr.  
New Windsor, NY 12550

Lonkewycz, Boris & Christina  
57 Guernsey Dr.  
New Windsor, NY 12550

Fulin, Alex  
59 Guernsey Dr.  
New Windsor, NY 12550

Carpenter, Brian R. & Janet M.  
96 Guernsey Dr.  
New Windsor, NY 12550

Keating, James F. & Nancy E.  
94 Guernsey Dr.  
New Windsor, NY 12550

Hernandez, Louis & Miriam  
92 Guernsey Dr.  
New Windsor, NY 12550

Ellis, Stephen E. & Lori A.  
90 Guernsey Dr.  
New Windsor, NY 12550



Perez, Victor M. & Maria A.  
64 Guernsey Dr.  
New Windsor, NY 12550 X

Wolfe, Randolph G. & Peggy L.  
62 Guernsey Dr.  
New Windsor, NY 12550 X

Barclay, Barbara  
1901 NW 106th Ave.  
Pembroke, FL 33026

Armida, Michael J. & Mary Ann Neroda  
58 Guernsey Dr.  
New Windsor, NY 12550 X

Hatala, Charles & Nancy E.  
56 Guernsey Dr.  
New Windsor, NY 12550 X

Albaugh, Franklin H. & Theresa M.  
201 Butterhill Dr.  
New Windsor, NY 12550 X

Stukonis, Peter C.  
& Margaret M. Elstob  
204 Butterhill Dr.  
New Windsor, NY 12550 X

Gutshall, Roy B. & Cynthia J.  
206 Butterhill Dr.  
New Windsor, NY 12550 X

Stasi, Frank & Jean.  
208 Butterhill Dr.  
New Windsor, NY 12550 X

Gallo, Joseph R. & Martha H.  
210 Butterhill Dr.  
New Windsor, NY 12550 X

Greeley, Lawrence E. & Jane C.  
212 Butterhill Dr.  
New Windsor, NY 12550 X

Harth, Philip & Nancy  
PO Box 114  
Vails Gate, NY 12584 X

Bigi, Donald & Donna J.  
216 Butterhill Dr.  
New Windsor, NY 12550

Amigo, Rochelle D. X  
79 Guernsey Dr.  
New Windsor, NY 12550

Vinci, Dominick & Iola & Jennie D.  
499 Franklin St.  
Port Chester, Ny 10573 X

Creegan, Michael & Valerie M.  
75 Guernsey Dr. X  
New Windsor, NY 12550

PUBLIC NOTICE OF HEARING BEFORE  
ZONING BOARD OF APPEALS  
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals  
of the TOWN OF NEW WINDSOR, New York will hold a  
Public Hearing pursuant to Section 48-34A of the  
Zoning Local Law on the following proposition:

Appeal No. 53

Request of MOODNA DEVELOPMENT COMPANY, INC.

for a VARIANCE of  
the regulations of the Zoning Local Law to  
permit existing deck with insufficient rear yard  
setback;

being a VARIANCE of  
Section 48-12 - Table of Use/Bulk Regs.- Col. G

for property situated as follows:

27 Guernsey Drive, New Windsor, N.Y.  
known and designated as tax map Section 78 - Block 9 -  
Lot 25.

SAID HEARING will take place on the 27th day of  
November, 19 89, at the New Windsor Town Hall,  
555 Union Avenue, New Windsor, N. Y. beginning at  
7:30 o'clock P. M.

JAMES NUGENT  
Chairman

**MOODNA DEVELOPMENT COMPANY, INC.**

BUTTER HILL PROPERTIES

P.O. BOX 4407

BUTTER HILL DRIVE

NEW WINDSOR, NEW YORK 12550

(914) 561-3194

CC: ZBA

Rec'd.  
ZBA 10/30/89.  
(P.B.)

October 27, 1989

Zoning Board  
Town of New Windsor  
555 Union Avenue  
New Windsor, New York 12550

Gentlemen:

The building department has denied issuing a certificate of occupancy on our "Model" House which was built on Lot # 152, known as 27 Guernsey Drive, Tax Section 78, Block 9, Lot 25, as the deck is in the 40 foot rear yard set back.

This "Model" and deck was built in 1986 (building permit #3391) prior to the code interpretation that a deck as living space and and to be outside of the 40 foot rear yard set back.

Please also be advised that this deck was referred to the building department along with all the other decks built prior to the interpretation. All of these decks were then reviewed by the zoning board and approved as built.

Although Lot #152 was completed in 1986, a certificate of occupancy was not requested or issued as the house was not sold nor occupied but was used as a "model". Since then, additional houses have been built, variances approved and certificates of occupancies issued. (Reference Lots #387, 150, 151, 153 and 147)

**MOODNA DEVELOPMENT COMPANY, INC.**  
BUTTER HILL PROPERTIES  
P.O. BOX 4407  
BUTTER HILL DRIVE  
NEW WINDSOR, NEW YORK 12550  
(914) 561-3194

Zoning Board  
page 2

This is a second request for a variance requested by Moodna Development Co., Inc. The first was for a building set back in Section 4 which was approved so we could sell the lot to Schoonmaker Homes. Except for some decks built on early houses before the interpretation of the code, all units comply with all zoning requirements.

We kindly request that the Board review this request and act favorably on it.

Very truly yours,



Leigh K. Lydecker, Jr., P.E.  
Moodna Development Company, Inc.

LKL/bas

B.

ORANGE COUNTY DEPARTMENT OF PLANNING  
APPLICATION FOR MANDATORY COUNTY REVIEW  
OF LOCAL PLANNING ACTION  
(Variances, Zone Changes, Special Permits, Subdivisions)

Section A. - To be completed by Local Board having jurisdiction.  
To be signed by Local Official.

Local File No. 89-54

1. Municipality TOWN OF NEW WINDSOR Public Hearing Date 11/27/89

☐ City, Town or Village Board ☐ Planning Board ☒ Zoning Board of Appeals

2. Applicant: NAME MOODNA DEVELOPMENT COMPANY, INC.

Address 202 Butterhill Drive, New Windsor, N.Y. 12550

Attorney, Engineer, Architect -

3. Location of Site: 27 Guernsey Drive, New Windsor, N.Y. (Butterhill Subdivision)  
(street or highway, plus nearest intersection)

Tax Map Identification: Section 78 Block 9 Lot 25

Present Zoning District CL (CLUSTER) Size of Parcel 112 x 115 +

4. Type of Review:

☐ Special Permit Use\* \_\_\_\_\_

☒ Variance\* Use \_\_\_\_\_  
Area Rear yard to allow existing deck.

☐ Zone Change\* From: \_\_\_\_\_ To: \_\_\_\_\_

☐ Zoning Amendment\* To Section: \_\_\_\_\_

☐ Subdivision\*\* Major \_\_\_\_\_ Minor \_\_\_\_\_

11/13/89

Date

Patricia G. Banhart, Secy  
Signature and Title

\*Cite Section of Zoning Regulations where pertinent

\*\*Three (3) copies of map must be submitted if located along County Highway, otherwise, submit two (2) copies of map.

OCPD-1